IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.Rev.Pet.No. 2465 of 2007()

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CRA.588/2001 of ADDL.SESSIONS COURT (ADHOC)-III, THALASSERY
CC.91/2001 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY

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REVN. PETITIONER: ACCUSED

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1. ANOOP,S/O.RAVEENDRAN,THIRUVANGAD, THALASSERRY.

2. V.K.ANEESH,S/O.RAVEENDRAN,THIRUVANGAD THALASSERRY.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT

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STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM,(CRIME NO.488 OF 1999 OF THALASSERRY POLICE STATION)

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**V. RAMKUMAR, J.**

**Crl. R.P. No. 2465 OF 2007 C**

**Dated this the 19th day of July, 2007**

**O R D E R**

Petitioners, who are accused Nos.1 and 2 in C.C.No.91/2001 on the file of the Additional Chief Judicial Magistrate, Thalassery for offences punishable under sections 143, 147, 148, 341, 324 and 427 read with section 149 IPC, challenge the conviction entered and the sentence passed against them concurrently by the courts below for offences punishable under sections 324 and 341 IPC. For the conviction under section 324 IPC, each of them was sentenced to undergo simple imprisonment for one year and for the conviction under section 341 IPC, each of them was sentenced to undergo simple imprisonment for one month.

2. Eventhough the learned counsel appearing for the revision petitioners assailed the conviction, the same has been entered after an evaluation of the oral and documentary evidence in the case and two courts have accepted the prosecution case in that behalf. Sitting in the rarefied revisional jurisdiction, this court will be loathe to interfere with the said finding. The conviction

entered against the petitioners is accordingly confirmed.

3. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioners. Having regard to the injuries sustained by PWs 1 and 2 and the political nature of the occurrence, I do not think that penal servitude by way of incarceration is warranted in this case. Incidentally, it is worth mentioning that both the courts below have been insensitive to the need to compensate the victims of the assault. Notwithstanding the judicial mandate of the Apex court in the decision reported in ***Hari Krishnan and State of Haryana Vs. Sukhbir Singh and others[***AIR 1988 SC 2127] directing all criminal courts in the country to liberally exercise the power under section 357 Cr.P.C., both the courts have been oblivious of the said judicial mandate. I am of the view that interests of justice will be adequately met by directing the revision petitioners to undergo imprisonment till rising of the court and to pay an appropriate sum by way of compensation. Accordingly, the sentence imposed on the revision petitioners is set aside and each of them shall undergo imprisonment till rising of the court and shall pay a sum of Rs.5,000/- (Rupees five thousand only) under

section 324 IPC and Rs.3,000/- (Rupees three thousand only) under section 341 IPC within one month from today. From out of the fine amount, a sum of Rs.5,000/- (Rupees five thousand only) shall be paid to PW1 and a sum of Rs.3,000/- (Rupees three thousand only) shall be paid to PW2 by way of compensation under section 357(1) Cr.P.C. In the event of default to pay the fine, the defaulting accused shall undergo simple imprisonment for three months. The sentence of imprisonment shall run concurrently.

**(V. RAMKUMAR, JUDGE)**

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